

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**LYKE CORPORATION,
Plaintiff,**

v.

Case No. 09-C-0769

**ALL DESIGN & GRAPHICS, INC.,
Defendant.**

ORDER

On August 10, 2009, plaintiff Lyke Corporation filed this breach of contract action against defendant All Design & Graphics, Inc. I have jurisdiction pursuant to 28 U.S.C. § 1332 because plaintiff is a Wisconsin corporation having its principal place of business in Wisconsin, defendant is an Illinois corporation having its principal place of business in Illinois, and the amount in controversy exceeds \$75,000.

On September 30, 2009, the parties entered into a settlement agreement and, pursuant to that agreement, the magistrate judge to whom this case was initially assigned entered an order dismissing it. The settlement agreement provided that if defendant failed to make certain payments called for by the agreement, plaintiff would be entitled to take a judgment in the amount of \$100,354.68, less any payments actually made by defendant. On October 23, 2009, plaintiff filed a motion noting that defendant had failed to make a scheduled payment and requested a “default judgment” in the amount of \$80,354.68. On October 29, 2009, however, the magistrate noticed that the parties had not consented to proceed before her at the time she entered the order dismissing the case pursuant to the settlement agreement. She therefore vacated the dismissal, and the clerk then reassigned the case to me.

Because the settlement was conditioned on the dismissal of this case, and because that dismissal has been vacated, it appears that the settlement agreement may be void. I will therefore deny plaintiff's motion for default judgment based on the settlement agreement. The court will set this matter for an initial scheduling conference once the defendant enters an appearance. If the defendant does not enter an appearance, or if plaintiff believes that defendant is in default for failing to file a timely answer, then plaintiff may request that the clerk of court enter defendant's default or may take whatever other action it deems appropriate.

THEREFORE, IT IS ORDERED that plaintiff's motion for default judgment is **DENIED**.

Dated at Milwaukee, Wisconsin, this 20 day of November, 2009.

/s_____
LYNN ADELMAN
District Judge